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FM SECSTATE WASHDC

TO AMEMBASSY KINSHASA IMMEDIATE

AMEMBASSY BUJUMBURA IMMEDIATE

AMEMBASSY KAMPALA IMMEDIATE DAR ES SALAAM IMMEDIATE

INFO USMISSION USUN NEW YORK PRIORITY

AMEMBASSY THE HAGUE PRIORITY

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NO. 12336: DECL: OADR

TAGS: PHUM, RW, UN

SUBJECT: RWANDA WAR CRIMES

1. CONFIDENTIAL - ENTIRE TEXT.

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2. AS REPORTED IN USUN 4459, WE ARE CLOSE TO WRAPPING UP
 THE LAST ELEMENTS OF A SECURITY COUNCIL RESOLUTION
 CREATING THE RWANDA WAR CRIMES TRIBUNAL. WE NEED TO
 COMPLETE THIS DEAL QUICKLY BEFORE FURTHER PROBLEMS ARISE.

3. PARA 14 OF USUN 4459 REPORTED THAT FRANCE IS WILLING TO
 ACCEPT THE RWANDAN REQUEST THAT THE TRIBUNAL HAVE
 JURISDICTION OVER OFFENSES COMMITTED BY RWANDAN NATIONALS

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UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: ARCHIE M BOLSTER
 DATE/CASE ID: 19 MAR 2004 200303979

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IN NEIGHBORING STATES, BUT ONLY IF THE FOUR STATES CONCERNED AGREE. IN PARA 15 OF USUN 4459, USUN SUGGESTS THAT KINSHASA, BUJUMBURA, KAMPALA AND DAR ES SALAAM CONTACT APPROPRIATE AUTHORITIES TO CONFIRM THEIR ACCEPTANCE OF INTERNATIONAL JURISDICTION OVER THE OFFENSES INVOLVED IF COMMITTED IN THEIR TERRITORIES BY RWANDANS.

4. WE CONCUR WITH USUN'S REQUEST AND ASK THAT YOU SEEK TO ACCOMPLISH THIS ASAP IF YOU HAVE NOT ALREADY DONE SO. WE SUGGEST THAT YOU USE THE POINTS IN PARA 5 BELOW AS YOU

FIND APPROPRIATE. SINCE WE NEED TO RESOLVE THIS BY EARLY NEXT WEEK, WE SUGGEST YOU ASK YOUR HOST GOVERNMENTS TO COMMUNICATE WITH THEIR UN MISSIONS ASAP.

5. BEGIN POINTS:

-- THE SECURITY COUNCIL IS IN THE FINAL STAGE OF CONSIDERATION OF A RESOLUTION THAT WOULD CREATE A WAR CRIMES TRIBUNAL FOR RWANDA. THE RWANDAN GOVERNMENT HAS REQUESTED THAT THIS BE DONE AS SOON AS POSSIBLE, AND WE STRONGLY AGREE. THIS ACTION IS ESSENTIAL TO THE RESTORATION OF PEACE, STABILITY AND RECONCILIATION TO THE CONFIDENTIAL

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REGION, AS WELL AS TO THE ENDS OF JUSTICE.

-- ONE OF THE LAST ISSUES HOLDING UP SECURITY COUNCIL ACTION IS THE REQUEST OF RWANDA THAT THE NEW TRIBUNAL HAVE JURISDICTION OVER OFFENSES COMMITTED BY RWANDANS IN NEIGHBORING STATES AS WELL AS IN RWANDA. WE BELIEVE THIS IS A REASONABLE REQUEST. ONE OF THE OTHER COUNCIL MEMBERS HAS, HOWEVER, TAKEN THE POSITION THAT IT CANNOT AGREE TO THIS SOLUTION UNLESS THE GOVERNMENTS OF THE FOUR NEIGHBORING STATES CONCUR.

-- WE BELIEVE YOU WILL FIND THIS SOLUTION TO BE IN YOUR OWN INTERESTS. IT WOULD ALLOW THE INTERNATIONAL TRIBUNAL TO ASSUME THE BURDEN OF TRYING AND PUNISHING RWANDANS WHO HAVE COMMITTED OR MAY COMMIT SUCH OFFENSES IN YOUR TERRITORY. IT WOULD SPARE YOU THE BURDEN (AND POSSIBLE RISK) OF TRYING SUCH PERSONS IN YOUR OWN COURTS OR TOLERATING THEIR CONTINUED PRESENCE IN YOUR TERRITORY.

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-- THIS SOLUTION WOULD BE LIMITED TO GENOCIDE, WAR CRIMES AND CRIMES AGAINST HUMANITY, ALL OF WHICH ARE RECOGNIZED INTERNATIONAL OFFENSES FOR WHICH TRIAL BY INTERNATIONAL TRIBUNALS IS APPROPRIATE. IT WOULD NOT PREVENT YOU FROM TRYING ANY SUCH OFFENDERS IF THE TRIBUNAL DECIDES NOT TO EXERCISE ITS JURISDICTION, NOR ANY PERSONS WHO COMMIT COMMON CRIMES.

-- UNDER THESE CIRCUMSTANCES, WE URGE YOU TO CONCUR IN THIS SOLUTION. BECAUSE OF THE IMPORTANCE OF ACTING QUICKLY, WE URGE YOU TO INSTRUCT YOUR UN MISSION TO COMMUNICATE YOUR GOVERNMENT'S VIEW ON THIS PROPOSAL AS CONFIDENTIAL

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SOON AS POSSIBLE.
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